



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-3503 FAX (603) 271-2982



Panos A. and Merope Pitsas
30 Westside Road
Harrisville, NH 03450

Re: Tax Map 73, Lot 8,
Harrisville, New Hampshire

ADMINISTRATIVE ORDER

No. WD 03 -013

April 21, 2003

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Water Division to Panos A. and Merope Pitsas, pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal offices at 6 Hazen Drive, Concord, NH.
2. Panos A. and Merope Pitsas are individuals having a mailing address of 30 Westside Road, Harrisville, New Hampshire 03450.

C. STATEMENT OF FACTS AND LAW

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "[no] person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
3. RSA 482-A:14, III provides that "(f)ailure, neglect or refusal to comply with [RSA 482-A] or rules adopted under [that] chapter, or an order or condition of a permit issued under [RSA 482-A], and the misrepresentation by any person of a material fact made in connection with any activities regulated or prohibited by [RSA 482-A] shall be deemed violations of RSA 482-A".
4. Panos A. and Merope Pitsas are the owners of property located at 30 Westside Road, Harrisville, NH, on Silver Lake, more particularly identified on Town of Harrisville Tax Map 73 as Lot 8 ("the Property").

5. DES issued Dredge and Fill Permit #93-1844 to Panos A. Pitsas on November 2, 1993 ("the Permit"). The Permit was for reconstruction and reinforcement of an existing concrete retaining wall. The drawings and photographs submitted with the wetlands application showed the existing structures on the Property: a boathouse, a cement patio and the main house. There were no other structures present on the Property at that time.

6. On August 27, 2001, DES received an *Expedited Seasonal Dock Notification* form ("the Notification"), signed by Mr. Pitsas, for installation of a seasonal dock on the Property. By signing the Notification, Mr. Pitsas agreed and acknowledged that the proposed seasonal dock would be constructed and installed in accordance with the criteria specified on the Notification, in particular:

- a) The seasonal dock was to be the only structure on the frontage;
- b) The seasonal dock was to be removed during the non boating season;
- c) The seasonal dock was to be no more than 6 feet wide by 30 feet long; and
- d) The seasonal dock would comply with the Comprehensive Shoreland Protection Act (RSA 483-B).

7. On July 8, 2002, DES personnel conducted a field inspection of the Property and observed the following:

- a) There was a boathouse on the north end of the frontage, a concrete retaining wall along the entire frontage, and a permanent wharf on the south side of the frontage;
- b) In the location where the seasonal dock had been shown on the Notification was a 16.25-foot wide x 4.3-foot long permanent deck ("the Deck") extending over the water.

8. The Deck is surrounded by a railing and at such a height as to preclude its use as a docking structure.

9. Rule Wt 402.09 (c), *Structures Disallowed*, states that "structures over water shall not be allowed for the transfer of any activities usually associated with land, including, but not limited to sunbathing and picnicking."

D. DETERMINATION OF VIOLATIONS

1. Panos A. and Merope Pitsas have violated RSA 482-A:3, I, by constructing the Deck, which does not conform with the seasonal dock notification, in waters of the state without a permit from DES.

2. Panos A. and Merope Pitsas have violated RSA 482-A:3, I by constructing a wharf without a permit from DES.

E. ORDER

Based on the above findings, DES hereby orders Panos A. and Merope Pitsas as follows:

1. **Within 30 days of the date of this Order**, remove the Deck and the wharf from Silver Lake.

2. **Within 40 days of the date of this Order**, submit photos and a letter showing removal of the Deck and wharf to:

Darlene Forst
Shoreland Supervisor
Wetlands Bureau
DES Water Division
6 Hazen Drive – P.O.Box 95
Concord, NH 03302-0095

F. APPEAL


Any person aggrieved by the determination of this Order may apply for reconsideration with respect to any matter determined in this action within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if, in its opinion, good reason is provided in the motion.

Filing a motion for reconsideration of the Order will not automatically relieve you of your obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A:13 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Panos and Merope Pitsas remain obligated to comply with all applicable requirements. DES will continue to monitor the Pitsas' compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Cheshire County Registry of Deeds so as to run with the land.


COPY
Harry T. Stewart, P.E., Director
Water Division


COPY
Robert Monaco, Acting Commissioner

CERTIFIED MAIL # 7099 3400 0002 9774 7749

cc: Mark Harbaugh, DES Legal Unit
Tim Drew, DES PIP Office
Cheshire County Registry of Deeds
MaryAnn Tilton, WET/WD/DES
Harrisville Planning Board
Harrisville Conservation Commission